XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Cr.A.No. 757 OF 2005

[Single Bench; Hon'ble Mr. Justice Dhirendra Mishra]

APPELLANT (IN JAIL) — Krishna Kumar @ Balla Age 36 S/o. Ram Chandrakar, R/o Kurmipara, Mahasamud, P.S. Mahasamund, Distt.- Mahasamund C.G.

Vs

RESPONDENT — STATE OF CHHATTISGARH, Through the station house officer, Police station- Mahasamund, Distt.-Mahasamund

1.11.2007

Mr. Anant Bajpai, Advocate for the appellant.

Mr. S. Yadav, Dy. Govt. Adv. for the State.

Heard.

The instant appeal is directed against the order of sentence and judgment of conviction dated 31.8.2001 passed by learned 1st Additional Sessions Judge, Mahasamund in S.T. No.13/2001 whereby the learned Additional Sessions Judge has convicted the appellant under Section 304 (Part-2) of the IPC and sentenced him to undergo R.I. for 10 years and to pay a fine of Rs.1,000/- with usual default clause.

[पीठ देखिये

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Case of the prosecution, in brief, is that the appellant is the only son of deceased Chhitabai, there used to be frequent quarrel between the mother and the son in the name of according consent to sell the land. On the date of incident also around 9:30 p.m. the appellant was pressurizing his mother for giving consent to sell the land and on her refusal, he started abusing her with filthy language and started assaulting her with fist and kicks. He also assaulted her by throwing boulder over her head and face. Incident has been witnessed by Ganesh Prasad (P.W.1), Kejabai (P.W.9), Bishat (P.W.14), Arvind (P.W.18) & Ajay (P.W.20).

There is overwhelming evidence available on record that on the date of incident at about 7:00 p.m. deceased Chhitabai was sitting in the home of her sister Kejabai, at that time accused came there and started abusing her. Persons present there tried to separate them, however, Kejabai, sister of the deceased, separated them and thereafter deceased went inside the house. The appellant followed her and dragged her out of the house by catching her hairs and thereafter started assaulting her with kicks

[पेज देखें]

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

& fist. He further assaulted her by picking up a stone lying nearby.

Version of Kejabai (P.W.9) is corroborated by the statement of other witnesses. Dr. N.K. Mandappe (P.W.17) had examined the deceased on 24.11.2000 and has stated that patient was brought to him in semi-conscious condition, there was a haematoma present over her head, she had sustained lacerated wound over her right eye, her both eyes were swollen and she had sustained head injury also. He preferred the patient to Medical College, Raipur and all the injuries were caused by hard and blunt object. However, Chhitabai died subsequently on 25.11.2000 at about 1:20 a.m. On her postmortem, fracture on skull and temporal region were noticed, there were multiple fractures on her head, 4th, 5th, 6th & 8th ribs of right side were also fractured and the cause of death has been opined as shock due to excessive bleeding as a result of head injury. It has been further opined that the stone by which the appellant allegedly assaulted the deceased could cause the above injuries.

The defence could not be able to elicit anything in the cross-examination of the eyewitness examined by the

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

prosecution, who have fully supported the prosecution and have narrated the incident in full detail.

Only argument advanced by learned counsel for the appellant is that the appellant is in jail since 26.11.2000 and as such he has already completed almost 7 years of jail sentence out of total jail sentence of 10 years imposed upon him and therefore, the sentence may be modified to the period already undergone by the appellant.

After going through the evidence available on record and the manner in which the offence has been committed by the appellant whereby he has killed his own mother in a most brutal manner, this Court is of the considered opinion that no modification is called for in the sentence awarded to the appellant.

In the result, the appeal being devoid of substance is liable to be dismissed and it is hereby dismissed.

Sd/-
DHIRENDRA MISHRA
Judge

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